In the Supreme Court of the United States.

OCTOBER TERM, 1920.

THE UNITED STATES OF AMERICA, plaintiff in error,
v.
BEN B. SWARTZ. } No. 377.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF MICHIGAN.

BRIEF FOR THE UNITED STATES.

By the writ of error in this case the United States seeks to review a judgment of the District Court sustaining a demurrer to an indictment charging an offense under section 2 of the act of October 22, 1919 (41 Stat., 1st sess., c. 80, p. 297), which makes it unlawful for any person "to make any unjust or unreasonable rate or charge in handling or dealing in or with any necessaries." The demurrer was sustained upon the ground that this section of the act in question is unconstitutional and void.

The questions presented by the writ of error are identical with those presented in the cases of *United States* v. *L. Cohen Grocery Company*, No. 324; *Harry A. Tedrow* v. *A. T. Lewis & Son Dry Goods Company*, No. 357, and *R. E. Kennington* v. *A. Mitchell Palmer*, No. 367, which will be heard and considered by the

court contemporaneously with this case. The Government's argument in support of the constitutionality of the law has been fully set out in the briefs filed in those cases, which are now referred to and need not be repeated.

Respectfully submitted.

WILLIAM L. FRIERSON,
Solicitor General.

SEPTEMBER, 1920.

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